



General Assembly

January Session, 2013

***Raised Bill No. 6393***

LCO No. 2981



Referred to Committee on PUBLIC HEALTH

Introduced by:  
(PH)

***AN ACT CONCERNING THE PROFESSIONAL STANDARD OF CARE  
FOR EMERGENCY MEDICAL CARE PROVIDERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-184c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) (1) In any civil action to recover damages resulting from personal  
4 injury or wrongful death occurring on or after October 1, 1987, in  
5 which it is alleged that such injury or death resulted from the  
6 negligence of a health care provider, as defined in section 52-184b, the  
7 claimant shall have the burden of proving by the preponderance of the  
8 evidence that the alleged actions of the health care provider  
9 represented a breach of the prevailing professional standard of care for  
10 that health care provider.

11 (2) Notwithstanding the provisions of subdivision (1) of this  
12 subsection, in any civil action to recover damages resulting from  
13 personal injury or wrongful death occurring on or after October 1,  
14 2013, in which it is alleged that such injury or death resulted from the

15 negligence of a health care provider, as defined in section 52-184b, in  
16 the course of providing treatment to a patient in a hospital emergency  
17 department, the claimant shall have the burden of proving by clear  
18 and convincing evidence that the alleged actions of the health care  
19 provider represented a breach of the prevailing professional standard  
20 of care for that health care provider.

21 (3) The prevailing professional standard of care for a given health  
22 care provider shall be that level of care, skill and treatment which, in  
23 light of all relevant surrounding circumstances, is recognized as  
24 acceptable and appropriate by reasonably prudent similar health care  
25 providers.

26 (b) If the defendant health care provider is not certified by the  
27 appropriate American board as being a specialist, is not trained and  
28 experienced in a medical specialty, or does not hold himself out as a  
29 specialist, a "similar health care provider" is one who: (1) Is licensed by  
30 the appropriate regulatory agency of this state or another state  
31 requiring the same or greater qualifications; and (2) is trained and  
32 experienced in the same discipline or school of practice and such  
33 training and experience shall be as a result of the active involvement in  
34 the practice or teaching of medicine within the five-year period before  
35 the incident giving rise to the claim.

36 (c) If the defendant health care provider is certified by the  
37 appropriate American board as a specialist, is trained and experienced  
38 in a medical specialty, or holds himself out as a specialist, a "similar  
39 health care provider" is one who: (1) Is trained and experienced in the  
40 same specialty; and (2) is certified by the appropriate American board  
41 in the same specialty; provided if the defendant health care provider is  
42 providing treatment or diagnosis for a condition which is not within  
43 his specialty, a specialist trained in the treatment or diagnosis for that  
44 condition shall be considered a "similar health care provider".

45 (d) Any health care provider may testify as an expert in any action if

46 he: (1) Is a "similar health care provider" pursuant to subsection (b) or  
47 (c) of this section; or (2) is not a similar health care provider pursuant  
48 to subsection (b) or (c) of this section but, to the satisfaction of the  
49 court, possesses sufficient training, experience and knowledge as a  
50 result of practice or teaching in a related field of medicine, so as to be  
51 able to provide such expert testimony as to the prevailing professional  
52 standard of care in a given field of medicine. Such training, experience  
53 or knowledge shall be as a result of the active involvement in the  
54 practice or teaching of medicine within the five-year period before the  
55 incident giving rise to the claim.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2013</i>	52-184c
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***Statement of Purpose:***

To provide that a claimant in a medical malpractice action establish the negligence of a health care provider, who provided treatment in a hospital emergency department, by clear and convincing evidence.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*